

# HOUSE . . . . . No. 17

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Accompanying the first recommendation of the Executive Office of Labor and Workforce Development (House, No. 16). Labor and Workforce Development.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine.

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### AN ACT RELATIVE TO STRENGTHENING THE ENFORCEMENT OF STOP WORK ORDERS UNDER THE WORKERS' COMPENSATION STATUTE .

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1       Section 25C of chapter 152 of the General Laws, as appearing in the 2007 Official Edition, is  
2 hereby amended by striking out subsection (1) and the first paragraph of subsection (2), and  
3 inserting in place thereof the following new paragraphs:—

4       (1) Whenever the commissioner or his designee determines that an employer who is required  
5 to provide for the payment to his employees of the compensation provided for by this chapter has  
6 failed to do so, a stop work order shall be served on said employer, requiring the cessation of all  
7 business operations at any and all job sites or places of employment of said employer. Such order  
8 shall take effect immediately upon its service upon said employer, unless such employer provides  
9 evidence, satisfactory to the commissioner or his designee, of having secured any necessary  
10 insurance or self-insurance and pays a civil penalty into the private employer trust fund in the  
11 amount of two hundred and fifty dollars per day for each day such employer was not in  
12 compliance with this chapter, counting the date of service of the stop work order as the first day  
13 and the date of payment of the penalty herein provided and of the production of evidence of  
14 insurance or self-insurance as the final day.

15       In determining whether or not an employer has met the requirements of this chapter, the  
16 commissioner or his designee shall have the authority to conduct investigations for the purpose of  
17 ensuring employer compliance, enter and inspect any place of business or job site at any  
18 reasonable time for the purpose of investigating employer compliance, make observations  
19 regarding the number of workers and the activities of workers at the employer's place of business  
20 or job site, require the production of appropriate business records, examine and copy appropriate  
21 business records, certify to official acts, issue stop work orders, enforce the terms of a stop work  
22 order and perform any other actions necessary to ensure compliance with this chapter.

23 If, during the course of an investigation, the commissioner or his designee discovers  
24 information that an employer may be materially understating or concealing payroll, materially  
25 misrepresenting or concealing employee duties so as to avoid proper classification for premium  
26 calculations, or materially misrepresenting or concealing information pertinent to the computation  
27 and application of an experience rating modification factor, said employer may be referred to the  
28 joint enforcement task force on the underground economy and employee misclassification  
29 established by Executive Order 499 of 2008 or an any other appropriate agency for further  
30 investigation, even though such conduct may not constitute a violation of chapter 152.

31 (2) Any employer who is aggrieved by the imposition of a stop work order shall have ten  
32 days from the date of its service to appeal such order. Any employer who timely files such  
33 appeal shall be granted a hearing by the commissioner or his designee within fourteen days of  
34 receipt of appeal. The stop work order shall not be in effect during the pendency of any timely  
35 filed appeal. Any stop work order and monetary penalty shall be rescinded if the commissioner  
36 or his designee finds at the hearing that the employer has at all times been in compliance with this  
37 chapter. If the commissioner or his designee finds at the hearing that the employer did or has not  
38 provided for all insurance or self-insurance required by this chapter, the stop work order shall be  
39 effective immediately on the conclusion of the hearing and shall remain in effect until such time  
40 as the employer provides evidence, satisfactory to the commissioner or his designee, of having  
41 secured any necessary insurance or self-insurance and pays a civil penalty into the private  
42 employer trust fund in the amount of five hundred dollars per day for each day such employer  
43 was not in compliance with this chapter, counting the date of service of the stop work order as the  
44 first day and the date of payment of the penalty herein provided and of production of evidence of  
45 insurance or self-insurance as the final day.